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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,189	01/28/2004	Shogo Hashimoto	2002_0455A	9843
513	7590	10/28/2004	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021			LO, WEILUN	
			ART UNIT	PAPER NUMBER
			3747	

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/765,189	Applicant(s) HASHIMOTO ET AL.	
	Examiner Weilun Lo	Art Unit 3747	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-66 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-26 and 46-60 is/are allowed.
- 6) ☒ Claim(s) 1,2,5-13,27-34,37-45 and 61-66 is/are rejected.
- 7) ☒ Claim(s) 3,4,35 and 36 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>01/28/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. Figure 5 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 5, 6, 8, 9, 27, 28, 30-33, 37, 38, 40, 41, 61, 63, 65, and 66 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 5-157014. JP 5-157014 shows all the claimed elements, note particularly, fuel discharge apparatus (1, 30, 43), a reflux path 19, a vapor blocking member (15, 15', 15").

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 34 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 5-157014. JP 5-157014 shows a fuel pump 6 located in the fuel tank and does not specifically show a fuel pump located downstream of the fuel tank and upstream of the bifurcation point. However, it is well known in the art that the fuel pump maybe located outside the fuel tank. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a fuel pump located downstream of the fuel tank and upstream of the bifurcation point in that such would be functionally equivalent and no new or unusual results would have been obtained.

7. Claims 7, 29, 39, and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 5-157014 in view of Heimberg (CA 2,218,695). JP 5-157014 shows a fuel discharge apparatus 43 to include a pump, but does not specifically specify the type of the fuel pump. Heimberg is relied upon solely to teach that a plunger

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pump as claimed is old in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a plunger pump as taught by Heimberg in the system of JP 5-157014 in that such is an obvious matter of design choice and no new or unusual results would have been obtained.

8. Claims 10-13 and 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 5-157014 in view of Ekstam (US 5355860A). JP 5-157014 shows a fuel discharge apparatus to include a vapor blocking member (15, 15', 15''), but does not specifically specify the type of the vapor blocking member. Ekstam is relied upon solely to teach that a vapor blocking member 94 made particularly of porous/permeable paper is old in the art (note col. 4, l. 25-33). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a vapor blocking member as taught by Ekstam in addition providing functionally equivalent vapor blocking members made of other known materials, such as metal plate, sintered bodies, non-woven fabrics, and the like in the system of JP 5-157014 in that such is an obvious matter of design choice and no new or unusual results would have been obtained.

Allowable Subject Matter

9. Claims 14-26 and 46-60 are allowed.

10. Claims 3, 4, 35, and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Weilun Lo whose telephone number is 703-308-1957.

The examiner can normally be reached on 8:30AM TO 7:00PM Tu-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on 703-308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Weilun Lo
Primary Examiner
Art Unit 3747